IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.747 OF 2006

Suresh Arjun Kawankar .. Appellant

versus

Anant Arjun Kawankar .. Respondents

...

Mr. C.K. Tripathi for the appellant.

None present for the respondent

CORAM : D.G. KARNIK, J

DATED :17th October, 2006

P.C.:

1. Heard learned counsel for the appellant.

2. This appeal is directed against the order passed by the city civil court refusing to grant ex parte ad interim order. I perused the order. The learned judge has exercised the discretion of issuance of notice,

which is the normal rule under Order 39 Rule 3 of the Code of Civil Procedure. The motion is yet to be heard and had been made returnable 13th October, 2006. It is worthwhile to note that though the order was passed on 14th September, 2006 the appeal was not filed till 10th October, 2006 and was circulated for orders till today. The appellant could have well moved the trial court on 13th October, 2006 when the motion was made returnable. In the circumstances I do not find any reason to interfere in the discretion exercised by the trial court in issuing the notice as required under Order 39 Rule 3 of the Code of Civil Procedure. Appeal is accordingly dismissed.

(D.G. KARNIK, J)